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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,654	07/03/2003	Gad Keren	022352-000310	7244

20350 7590 01/18/2007  
TOWNSEND AND TOWNSEND AND CREW, LLP  
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SAN FRANCISCO, CA 94111-3834

EXAMINER
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DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
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3763

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/613,654

Applicant(s)

KEREN ET AL.

Examiner

Matthew F. DeSanto

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 33 and 36-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33 and 36-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 8/31/04, 4/18/05, 7/1/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

Restriction is withdrawn because of the preliminary amendment.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33, 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leschinsky (US 2001/0029349).

Leschinsky discloses in figure 6, a system for affecting a renal system comprising a local renal drug delivery catheter with a first and second portion and a second end portion comprising a first and second conduit (160,162) that extend distally from the first end portion, wherein the first and second conduits is coupled to a source of fluid agent (para [0050], [0051]), wherein the second end portion is adapted to be delivered, in a first condition with the first and second conduits at radially collapsed positions relative to each other, transverse to the longitudinal axis, at least in part to a location associated with first and second renal artery osita along an abdominal aorta; and wherein the first and second conduit can deliver fluid into the arteries simultaneously. Leschinsky fails to disclose the specific drugs being claimed.

Although Leschinsky does not teach the specific drugs claimed, Leschinsky does teach that the set maybe used to administer "all types of medical drugs or serums."

Since Leschinsky is taught as a device for "treating kidney diseases" (paragraph [0010]), it would have been obvious to include a drug adapted to affect renal function as claimed. Applicant claims a wide range of renal drugs, both broadly by function, and narrowly by name. In Applicant's own specification, at page 2 lines 4-13. Applicant discloses that administration of these drugs are "previously known methods" of treating acute renal (kidney) failure. Thus, one of ordinary skill in the art would have found it obvious to administer these using the device of Leschinsky.

The examiner would like to note, that MPEP section 2114 states, that in order to receive an apparatus patent, there must be some structurally different elements, and recommends that the applicant incorporates the structure that is different and that allows the claimed invention to perform the different function then the prior art

3. Claims 33, 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choi (USPN 6,482,211).

4. Choi discloses in figure 20, a system for affecting a renal system comprising a local renal drug delivery catheter with a first and second portion and a second end portion comprising a first and second conduit (23, 30) that extend distally from the first end portion, wherein the first and second conduits is coupled to a source of fluid agent (Column 12, lines 1-10), wherein the second end portion is adapted to be delivered, in a first condition with the first and second conduits at radially collapsed positions relative to each other, transverse to the longitudinal axis, at least in part to a location associated

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with first and second renal artery osita along an abdominal aorta; and wherein the first and second conduit can deliver fluid into the arteries simultaneously. Choi fails to disclose the specific drugs being claimed.

Although Choi does not teach the specific drugs claimed, Leschinsky does teach that the set maybe used to administer "for drug delivery." Since Choi taught a device that can be used with bifurcated vessel for treating certain conditions and can be modified by one of ordinary skill in art. Therefore, it would have been obvious to include a drug adapted to affect renal function as claimed. Applicant claims a wide range of renal drugs, both broadly by function, and narrowly by name. In Applicant's own specification, at page 2 lines 4-13. Applicant discloses that administration of these drugs are "previously known methods" of treating acute renal (kidney) failure. Thus, one of ordinary skill in the art would have found it obvious to administer these using the device of Choi.

5. The examiner would like to note, that MPEP section 2114 states, that in order to receive an apparatus patent, there must be some structurally different elements, and recommends that the applicant incorporates the structure that is different and that allows the claimed invention to perform the different function then the prior art.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F. DeSanto whose telephone number is 571-272-4957. The examiner can normally be reached on Monday-Friday 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick LUCCHESI can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Matthew DeSanto  
Art Unit 3763  
January 7, 2007